92-573

Supreme Court, U.S.
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IN THE
THE SUPREME COURT OF THE UNITED STATES

October 1992 Term

No._____

GEORGE and JOYCE WADE,
Petitioners,

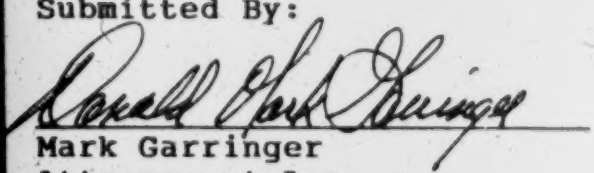
v.

THE INDIANA SUPREME COURT
DISCIPLINARY COMMISSION,
Respondent.

PETITION FOR WRIT OF CERTIORARI

PETITION FOR WRIT OF CERTIORARI
TO THE INDIANA SUPREME COURT

Submitted By:



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Question Presented

This appeal address a question of exceptional importance as to whether or not Petitioners may invoke that the Rules be given their plain meanings concerning the accountability of custodians of property itemized on the schedules of Petitioner's bankruptcy petitions, and whether or not Chapter 7 trustees have to be accountable for property and file a final report detailing the disposition of property listed on debtor's schedules and accounting for the same.

List of Parties

PETITIONERS: George Wade and Joyce Wade
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Greenfield, Indiana 46140

RESPONDENT: Donald R. Lundberg
Executive Secretary
Disciplinary Commission of
the Indiana Supreme Court
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To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The Petitioners, George and Joyce Wade (hereafter the "Wades") pray that Writ of Certiorari issue to review the final opinion of the Disciplinary Commission of the Indiana Supreme Court (referred as the "Commission" or "Disciplinary Commission") In Re The Matter of George and Joyce Wade, Petitioners, and Gordon Smith, Esq., Edward B. Hopper, II, Esq., Robert L. Sheaffer, Esq., and James G. Lauck, Esq., Respondents (sometimes referred to as "Respondents Below" or "Smith," "Hopper," "Sheaffer" and "Lauck" respectively). This matter arises from the Wades' Request for Investigation ("Grievance") of attorney misconduct filed with the Disciplinary Commission on January 30, 1989, pursuant to Section 10 of Rule 23 of the Rules of Admission and Discipline of the Indiana Supreme Court.

Opinions Below:

There are four opinions separately set forth by the Disciplinary Commission as to the Respondents Below. The opinions are identical in date, form, substance and decision dismissing the Grievance. The opinion of the Disciplinary Commission as to the Respondents Below is unreported and is reproduced in Appendix "A" hereto infra, at page 33.

Jurisdiction:

The opinions of the Disciplinary Commission in this matter were entered on June 23, 1992. The Disciplinary Commission is an administrative component of the Indiana Supreme Court. Section 11(a) of Rule 23 of Rules of Admission and Discipline provides that if the Commission determines that there is not reasonable cause to believe the respondent is guilty

of misconduct the grievance shall be dismissed. There is no provision in the Rules of Admission and Discipline or the Rules for Original Actions of the Indiana Supreme Court for review of a determination of the Commission when the Commission determines that there is not reasonable cause to believe that the respondent is guilty of misconduct. Thus, the opinions of the Commission are final by the highest court of a State in which a decision could be had. The jurisdiction of the Supreme Court is invoked under 28 U.S.C. §1257(a) and Thompson v. City of Louisville, 362 U.S. 199, 4 L.Ed.2d. 654, 80 S.Ct. 624 (1960).

Rules and Statutes Involved:

The Rules and Statutes involved are-

Rule 1.15(b) of the Rules of Professional Conduct which provides in pertinent part:

> **"...a lawyer...upon request by the client or third person, shall promptly render a full accounting regarding such property."**

Rule 6002(a) of the Rules of Practice and Procedure in Bankruptcy (hereafter cited as "Bankruptcy Rules") provides in pertinent part:

> **"Any custodian...shall promptly file a report and account with the court with respect to the property of the estate..."**

and generally, 11 U.S.C. §§542, 543.

11 U.S.C. §704 (2)(7)(9) which provides:

> **"The Trustee shall-**
> **(2) be accountable for all property received;**
> **(7)...furnish information concerning the estate and the estate's administration...;**
> **(9) make a final report and file a final account of the administration of the estate...;"**

Rule B-2023 (a)(6) of the Rules of the U.S. Bankruptcy Court for the Southern District of Indiana (hereafter cited as "Local Rule B-2023") which provides:

> **"(a) The Chapter 7 trustee's final report...shall contain...:**
> **(6) a statement detailing the items of property listed in the debtor's schedules, including accounts receivable and choses in action, and accounting for same;"**

Statement of the Case:

In September of 1985, the Wades were the proprietors of the U.G. Wade Trucking, Inc., (hereafter referred to as "Wade Trucking" or the "trucking company"). The trucking company had apprehensions of insolvency and the Wades retained attorney Gordon Smith, Respondent Below, to file Chapter 7 bankruptcy petitions for themselves and Wade Trucking. In the first week of October, 1985, the Wades moved to California on the promise of Smith

to promptly file bankruptcy petitions in the U.S. Bankruptcy Court for the Southern District of Indiana. On December 30, 1985, Smith filed bankruptcy petitions for the Wades and the trucking company in the U.S. Bankruptcy Court for the Southern District of Indiana (hereafter the "Bankruptcy"). Schedule B-1 of Wade Trucking's Bankruptcy petition listed twenty (20) account debtors of the accounts receivable of the trucking company totalling $85,440.56 (hereafter "Schedule B-1 accounts").

The first four account debtors listed on Schedule B-1 were owner-operator lessees of the trucking company who owed money to the trucking company for cash, oil, tires and repair advanced on running accounts. The other 16 account debtors listed on Schedule B-1 were brokers who owed certain money as payment for loads delivered by the trucking company during August and September, 1985.

Respondent Below, attorney Robert L. Sheaffer, represented 3 of the 4 owner-operator lessees listed on Schedule B-1. One of Sheaffer's clients listed on Schedule B-1 was Charles Kilby d/b/a "Jole, Inc. Joseph Kilby" ("Kilby"). In October of 1985, just after the Wades left for California, Kilby express mailed demands to the 16 brokers listed on Schedule B-1 for payment of these debts to Kilby pursuant to purported assignments of these accounts to Kilby. On November 26, 1985, Sheaffer sent a demand letter to Hartwick Transportation ("Hartwick") for payment of the debt Hartwick owed to Wade Trucking listed on Schedule B-1. On January 14, 1986, Hartwick sent to Sheaffer check no. #4320 for $1064.52 and check no. #4321 for $936.80 as settlement of the debt owed by Hartwick to Wade Trucking listed on Schedule B-1. Sheaffer endorsed these checks "Wade Trucking" and

rendered to money the Hartwick account listed on Schedule B-1 after the filing of the Bankruptcy petitions.

On May 19, 1986, Kilby, with his counsel Sheaffer being present, testified in a voluntary deposition he gave in the Bankruptcy that he received no money from his demands on the account debtors listed on Schedule B-1 and that the account debtors told him that the Wades had previously collected all the Schedule B-1 accounts and also that the Schedule B-1 accounts had been assigned to Merchants National Bank & Trust Company ("Merchants").

Respondent Below, James G. Lauck, represented Merchants concerning a secured business promissory note for $13,000.00 held by Merchants which was secured by the accounts receivable of Wade Trucking. Soon after the Wades left for California, Merchants sent a demand letter to a list

of brokers who routinely did business with Wade Trucking enclosing U.C.C. forms filed with the Secretary of the State of Indiana evidencing the perfection of Merchants' secured interest in the accounts receivable of Wade Trucking. The Schedule B-1 account debtors itemized as Cal-Ark, Bruce Johnson and Medford Transport, totalling more than $23,000.00, were on the list of brokers that Merchants sent a demand letter. Merchants also collected check no. #151594 for $5,957.03 of the American Home and National Union Insurance Co.

Respondent Below, Edward B. Hopper, II, ("Hopper") was assigned as the interim trustee for the Bankruptcy estates of the Wades and their trucking company upon filing of the Bankruptcy petitions on December 30, 1985, and served as the Chapter 7 bankruptcy trustee in both bankruptcies [which were consolidated in

July of 1986,] until his resignation in November, 1987. On October 20, 1987, the Wades had filed a motion in pro se to remove Hopper as trustee in the Bankruptcy on grounds Hopper had failed to discharge his duties as trustee in the Bankruptcy.

In February and March of 1988, the Wades in pro se filed motions in the Bankruptcy to compel Hopper to file a final report and for Hopper to produce documents concerning his administration to account for the Schedule B-1 accounts.

In September, 1988, Hopper filed a former trustee's final report in the Bankruptcy. Hopper's final report detailed his collection of 3 Schedule B-1 accounts itemized as TLC Truck Lines, Nationwide Truck Lines, and Nationwide Carriers. The final report did not detail or mention the other 17 accounts listed on Schedule B-1. There are no public accountings by Sheaffer or his clients as

to what right, title or interest Sheaffer and Kilby had to the Hartwick account listed on Schedule B-1. There is no public accounting by Merchants as to collection activity as to Schedule B-1 accounts, in particular Cal-Ark, Bruce Johnson and Medford, nor any public accounting for property collected such as the check from American Home and National Union Insurance Co., supra.

Hopper's administration of the Schedule B-1 accounts started in January 1986, when counsel employed to assist Hopper sent demand letters to the account debtors listed on Schedule B-1. Hartwick responded to the demand letter by enclosing the purported assignment of debt from Wade Trucking to Kilby, the demand letter of Sheaffer, the front and back of the checks issued by Hartwick, reflecting endorsement by Sheaffer and "Wade Trucking" and the rendering of this

account to cash, supra. On May 19, 1986, counsel assisting Hopper conducted the aforesaid deposition of Kilby where Kilby stated that he received no money from the demands he made on Schedule B-1 account debtors and that the accounts were assigned to Merchants. Sheaffer's clients listed on the Schedule B-1 testified that the Wades took $200,000.00 in cash and $40,000.00 in antique furniture with them to California. In June of 1986, Hopper filed a complaint in the Bankruptcy against the Wades to deny the Wades a discharge of their debts on grounds of concealment of assets, mutilation and concealment of financial affairs records, and perjury on execution of the Bankruptcy petitions.

There is nothing extant in the public record in the Bankruptcy or public record anywhere that addresses or mentions the 17 account debts listed on Schedule B-1 with

the exception of when the Wades mention it. In response to subpoenas for documents concerning the solicitations and collections of Schedule B-1 accounts, Hopper, Hopper's counsel, Sheaffer and Merchants generally assert that these documents are privileged.

From August of 1986 to December 1987, the Federal Bureau of Investigation ("F.B.I.") made an extensive investigation in the Wade bankruptcy. On July 20, 1989, the Honorable John Daniel Tinder entered a Notice regarding Disqualification in the Wade bankruptcy where he determined that it was inconceivable that the F.B.I. did not investigate allegations of wrongdoing in the Wade bankruptcy. A federal official with a security clearance high enough can have access to records maintained by the F.B.I. Records Management Division, Washington D.C. or local components of the U.S. Department of

Justice in Indianapolis, Indiana, the U.S. Attorney for the Southern District of Indiana and the Indianapolis Office of the F.B.I. to find out from confidential records of the Department of Justice where the accounts listed on Schedule B-1 went, and what right, title or interest the recipients had to the money, if any.

Likewise, counsel for the United States Trustee, Region 10, ("U.S. Trustee"), who supervised the Wade bankruptcy, testified at hearing held January 4, 1990, in the Wade bankruptcy, that the U.S. Trustee performed an audit of the Schedule B-1 and that a good tracing was made on each Schedule B-1 account. However, the results of the audit and tracing done by the U.S. Trustee are confidential and privileged.

The Wades have a substantial interest and right in the property consisting of Schedule B-1 accounts. The Wades have

been served with a Notice of Intent to Levy by the Internal Revenue Service ("I.R.S.") for tax arrearages assessed for the tax year 1985. In the Explanation of Items attached to the notice, the I.R.S. is asserting that the Wades collected $48,921.00 in income from Cal-Ark in tax year 1985 and are liable for taxes on that amount. Neither the Wades nor the Bankruptcy estate received the $10,599.00 owed by Cal-Ark as income earned in 1985 as listed on Schedule B-1. Without a proper accounting of Schedule B-1 accounts by the Respondents Below, the Wades are assessed taxes on income they never received.

On January 30, 1989, the Wades filed their Grievance with the Disciplinary Commission setting forth their complaints concerning the failure of the Respondents Below to account for property of the Wades, including Schedule B-1 accounts.

The Grievance was accompanied by 18 exhibits of evidence in support. The Commission directed the Respondents Below to provide the Commission with written responses to the Grievance. The Respondents Below served the Commission with written responses. In March of 1989, the Wades requested the Commission provide them with the written responses.

In May of 1989, the Commission denied the Wades' request for the written responses. The decision of the Commission to deny the Wades' request is unreported and is reproduced in Appendix "B" infra at page 34.

There is no statement in the final opinion to suggest the Commission acted on the 18 exhibits of evidence in support enclosed with the Grievance. Appendix "A" at page 33. There is no statement in the final opinion to suggest the Commission determined what happened to the

Schedule B-1 accounts or that Respondents Below accounted for the Schedule B-1 accounts. Id. There is no statement in the final opinion to suggest what factors the Commission considered in order to dismiss the Grievance except for the Grievance itself. Id. There is no statement in the decision of the Commission indicating what factors it considered for denying the Wades' request for the written responses of Respondents Below. Appendix "B" at page 34. The Commission did not provide for any opportunity for the Wades to be heard on their Grievance.

I. FIRST SUBSTANTIAL DEPARTURE FROM THE LAWS OF THE UNITED STATES

NO REASONABLE MIND CAN AGREE THAT CHAPTER 7 TRUSTEE EDWARD B. HOPPER, II, ACCOUNTED AND FILED A FINAL REPORT THAT DETAILS THE ITEMS OF PROPERTY LISTED ON THE SCHEDULE B-1 AND ACCOUNTING FOR SAME

11 U.S.C. §704 provides that trustees shall be accountable, provide information concerning administration of the estate and file a final report, supra at page 4.

Local Rule B-2023 (a)(6) provides that a Chapter 7 trustee's final report shall detail all items of property listed in the debtor's schedules, including accounts receivable, and accounting for the same, supra at page 4. No reasonable mind can agree that Chapter 7 trustee Hopper accounted for the Schedule B-1 of Wade Trucking, or that Hopper detailed the disposition of those Schedule B-1 accounts in a final report.

In Re Grand Jury Proceedings and In re Jim's Garage, Inc., 119 Bankruptcy Reporter 945 (E.D.Mich.-1980) (hereafter cited as "Jim's Garage") is a case in point concerning the duty of former Chapter 7 trustees to file a final report which details the disposition of items of

property listed on the debtor's schedules. 119. B.R. 952-953.

The procedural history in the bankruptcy case of Jim's Garage is nearly identical to the Wade Bankruptcy. See, Statement of the Case, supra at pages 9-10. In both cases, motions were filed to remove the Chapter 7 trustees for failure to account and to compel the trustees to file a final report and produce documents concerning their administrations. Id. Like the trustee in Jim's Garage, Hopper resigned his office in the face of the motion for his removal and asserts a privilege over documents that account for the Schedule B-1 accounts. Id.

In the case of Jim's Garage, the federal district court dealt with "privileges" asserted by a Chapter 7 trustee to withhold documents concerning his administration of the estate and

documents that accounted for property of the bankruptcy estate. The district court ruled that the requested documents are "public records." 119 B.R. 948-950. The district court noted that the Chapter 7 trustee asserted that records relating to his administration of the estate were "private" without any legal support or precedent. 119 B.R. 950. Such is the case here. Hopper fails to identify what "privilege" attaches to the documents or legal authority in support. That is because there is none. The district court in the case of Jim's Garage noted that if Chapter 7 trustees were allowed a privilege, "bankruptcy trustees would henceforth be licensed not only to abscond with the assets of the bankrupt estate entrusted to their care, but also with any records and evidence of their misconduct." 119 B.R. 955. Such is the case here.

The Rules of Professional Conduct of

the Indiana Supreme Court apply in this matter since Hopper is licensed to practice law in the State of Indiana and because the Commission considered the Wades' Grievance of attorney misconduct.

Rule 1.15(b) of the Rules of Professional Conduct provides that lawyers shall promptly account to clients and third parties who have an interest in property, supra at page 4. The Wades are third parties who have an interest in the Schedule B-1 accounts since the Wades are being assessed taxes on collections of Schedule B-1 accounts and the renderings of Schedule B-1 accounts to money would have gone to pay the taxes in the normal operation of Title 11 U.S.C. No reasonable mind can agree that Hopper promptly accounted to the Wades for assets listed on Schedule B-1. Thus, the Disciplinary Commission's final determination of the Grievance against

Hopper was an abuse of discretion. No reasonable person could agree that Hopper accounted for the accounts receivable listed on Schedule B-1 when required by law to do so. Thus, no reasonable person could agree with the Commission that the failure of Hopper to account did not raise a substantial question of attorney misconduct. Appendix "A" at page 33.

Rule 1.15(b) Rules of Professional Conduct is plain in meaning and embodies the fundamental notions of honesty and integrity held by members of the general public. The Supreme Court says that the Rules must be given their plain meaning. Pavlic & LeFlore v. Marvel Group, 493 U.S. 120, 123, 107 L.Ed.2d. 438, 110 S.Ct. 456 (1989). Notwithstanding any direct attorney-client relationship, Hopper has duties to the Wades pursuant to Rule 1.15(b) Rules of Professional Conduct and applicable Indiana law. Herman v. Frey, 537 N.E.2d. 529 (Ind.App.-1989).

No reasonable person could agree that Hopper has accounted for the Schedule B-1 accounts when required by federal and state law to do so. Hence, the Commission's final opinion as to the Wades' Grievance against Hopper is a clear abuse of discretion grounded in the failure of the Commission to consider and apply the relevant federal and state laws, and as such is a substantial departure from the laws of the United States and the State of Indiana, a departure which sanctions Hopper's failure as trustee and lawyer to account for property.

II. SECOND SUBSTANTIAL DEPARTURE FROM THE LAWS OF THE UNITED STATES

NO REASONABLE PERSON COULD AGREE THAT CUSTODIANS OF PROPERTY LISTED ON SCHEDULE B-1 ACCOUNTED FOR THE PROPERTY RECEIVED.

Rule 6002(a) of the Bankruptcy Rules provides that custodians of bankruptcy estate property shall account for that

property of the estate. This is consistent with duties of custodians set forth under 11 U.S.C. §§542 and 543. The duty of a custodian of bankruptcy estate property is absolute. United States v. Whiting Pools, Inc., 462 U.S. 198, 103 S.Ct. 2309, 76 L.Ed.2d. 515 (1988). Also, see, NLT Computer Services Corp. v. Capital Computer Systems, Inc., 755 F.2d. 1258 (6th Cir.-1985); In Re Hoffman, 51 B.R. 42 (Bankr.E.D.Ark.-1985); In Re Archer, 34 B.R. 42 (Bankr.N.D.Tex.-1983); In Re Cusano, 17 B.R. 879 (Bankr.E.D.Pa.-1982); Collier on Bankruptcy, ¶541.11 and 541.1 (15th Ed. 1984). See, also, In Re Bidlofsky, 57 B.R. 883, 900 (Bankr.E.D.Mich.-1985).

No reasonable person could agree that Smith, Sheaffer or Lauck accounted for collection of Schedule B-1 accounts, and other scheduled property, when required by law to do so. Rule 6002(a) Bankruptcy

Rules, supra.; 11 U.S.C. §542 and 543. No reasonable person could agree that the failure of these lawyers to account for the accounts receivable of Wade Trucking did not raise a substantial question of attorney misconduct. Rule 1.15(b) Rules of Professional Conduct, supra. Hence, the Commission's final opinion as to the Grievance against Smith, Sheaffer and Lauck is a clear abuse of discretion grounded in the failure of the Commission to consider and apply the relevant federal and state laws, and as such is a substantial departure from the laws of the United States and State of Indiana, one which sanctions the failure of Smith, Sheaffer and Lauck as custodians and lawyers to account for Bankruptcy estate property.

III. THIRD SUBSTANTIAL DEPARTURE FROM THE LAWS OF THE UNITED STATES

THE DETERMINATIONS OF THE DISCIPLINARY COMMISSION ARE REPUGNANT TO THE LAW AND A VIOLATION OF THE WADES' RIGHTS GUARANTEED BY THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

In Pepper v. Litton, 308 U.S. 295, 306-307, 60 S.Ct. 283, 84 L.Ed. 281 (1940), when a fiduciary's dealings are challenged, his dealings are subjected to rigorous scrutiny. 308 U.S. 306. A fiduciary cannot violate the rules of fair play to conceal information required by law to be revealed, and utilize his unique access to information to his own preferment. 308 U.S. 310. The Disciplinary Commission's final opinion is repugnant to the law. Id.

The Fourteenth Amendment of the Constitution of the United States provides that persons shall not be deprived of property without due process of law. Goldberg v. Kelly, 397 U.S. 254, 35 L.Ed. 287, 90 S.Ct. 1101. In Goldberg the Supreme Court outlines "the right to be heard" in any litigation or government activity by any party whose interests are determined. Id. It is an instinctive right with "ancient roots," Id. Such is the case here. The final opinion of the Commission that the Wades have no standing to be heard and invoke the judicial process concerning the Wades' assets rendered to money is a violation of the Wades' rights guaranteed by the due process clause of the Fourteenth Amendment. Id.

The Commission's final decision is wholly arbitrary and capricious since the Commission refuses to allow the Wades to

scrutinize the written responses of Respondents Below to the Grievance, which unfairly burdens the Wades to speculate as to the substance of the written responses and whether Respondents Below accounted for the Schedule B-1 accounts to the Commission.

If the written responses of Respondents Below did not account to the Commission for the Schedule B-1 accounts, then no reasonable mind could agree the Grievance did not raise a substantial question of misconduct, because that failure itself is prima facie evidence of misconduct. In order to satisfy requirements of the due process clause of the Fourteenth Amendment, there must be due notice and opportunity to be heard, the procedure must be consistent with the essentials of fair trial, and the commission must act upon the evidence and not arbitrarily. Railroad Com. of California v. Pacific Gas

& Electric Co., (1938) 302 U.S. 388, 82 L.Ed. 319, 58 S.Ct. 334.

If the written responses of Respondents Below did account to the Commission for the Schedule B-1 accounts, then the Commission's refusal to provide the Wades with the accounting is arbitrary, capricious and oppressive because it deprives and violates the Wades' basic right to know what happened to their property. This is a right of the Wades safeguarded by the due process clause of the Fourteenth Amendment against arbitrary and oppressive state action. Thomas Cusack Co. v. Chicago, (1917) 242 U.S. 526, 61 L.Ed. 472, 37 S.Ct. 190.

There is no semblance of due process afforded the Wades in this matter. Simply put, there is only the Wades' Grievance, and the Commission's arbitrary actions. There is no remedy or procedure provided in the Admission and Discipline Rules nor

the Rules of Procedure for Original Actions of the Indiana Supreme Court for review of the Commission's final decision. It is not within the power of the State of Indiana or the Commission to take away all remedy for the Wades to enforce their basic right to know what happened to their property. Poindexter v. Greenhow, (1885) 114 U.S. 270, 29 L.Ed. 185, 5 S.Ct. 903. Brinkerhoff-Faris Trust & Savings Co. v. Hill, (1930) 281 U.S. 673, 74 L.Ed. 1107, 50 S.Ct. 451.

Conclusion

The final opinion of the Disciplinary Commission is an abuse of discretion and itself sanctions substantial departures from relevant state and federal laws that mandate the Respondents Below to account for the Schedule B-1 accounts. The Commission either did not consider, or disregarded, the facts, evidence and law

necessary to a determination whether a substantial question of attorney misconduct existed for no reasonable person could agree the Respondents Below accounted for the Schedule B-1 accounts. The Commission acted arbitrarily by refusing to provide the Wades with the written responses of the Respondents Below without any stated reason for such refusal.

The Rules of Admission and Discipline give the Wades as citizens of the State of Indiana an avenue to seek redress of grievances against attorneys for misconduct. There is no remedy for review of the Commission's findings or decisions in such matters. The Wades were deprived of their rights guaranteed by the due process clause of the Fourteenth Amendment in this matter for the simple reason that the Commission provided no opportunity for the Wades to be heard on their Grievance,

the Commission refuses to allow the Wades to scrutinize the written responses of Respondents Below, and there is no indication by the Commission that it considered relevant state and federal laws. There is no indication the Commission even acted on the evidence in this matter.

PRECISE RELIEF REQUESTED

Therefore, for all the foregoing reasons, the Supreme Court should issue a writ for certiorari in this matter, and determine (1) whether a substantial question of misconduct exists as to Respondents Below, (2) whether the due process clause of the Fourteenth Amendment requires that the Commission provide the Wades with written responses of Respondents Below to the Grievance, (3) whether the final opinion of the Disciplinary Commission in this matter comports with the due process clause of the Fourteenth Amendment.

APPENDIX "A"

STATE OF INDIANA
DISCIPLINARY COMMISSION
OF THE SUPREME COURT

June 23, 1992

Dear Mr. Wade:

On June 12, 1992, the Disciplinary Commission considered your grievance against [EDWARD B. HOPPER, II; GORDON SMITH; ROBERT L. SHEAFFER; JAMES G. LAUCK].

The matter was investigated by this office. After reviewing the complaint, the Disciplinary Commission has determined that it does not raise a substantial question of misconduct which would warrant disciplinary action against [EDWARD B. HOPPER, II; GORDON SMITH; ROBERT L. SHEAFFER, JAMES G. LAUCK]. Therefore, the Commission has dismissed the complaint.

Donald R. Lundberg
Executive Secretary

APPENDIX "B"

STATE OF INDIANA
DISCIPLINARY COMMISSION
OF THE SUPREME COURT

May 22, 1989

Dear Mr. Wade:

On May 12, 1989, the Disciplinary Commission as a body considered your request for a copy of the responses to your grievance against attorneys Gordon Smith, Edward B. Hopper, II, James G. Lauck, and Robert L. Sheaffer.

After a thorough and careful consideration of your request, the Disciplinary Commission has decided to deny it.

Sheldon A. Breskow
Executive Secretary